

Chapter 7: Arrears & Contempt

What is arrears?

Arrears is the legal term for a type of debt that occurs after missed payments. In the case of child support, arrears refer to the accumulation of missed child support payments by the non-custodial parent.

If the non-custodial parent has accumulated arrears, what may the custodial parent file?

The custodial parent (or DCSE on their behalf) may file a Petition for Child Support Arrears. Respondent will then have the opportunity to file an Answer and a hearing may be held to allow Respondent to explain to the Court why the payments have not been made.

-A sample form may be found on page 19.

If the non-custodial parent has accumulated arrears, what may the Court do?

When arrears have accrued for 90 days under a support order, and the existing support order does not include payment on arrears, the amount of the order may be increased by 10 percent of the current support order or \$5.00, whichever is greater.

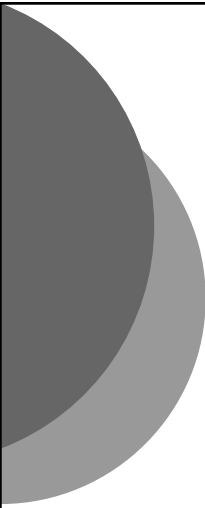
The Court may order the defendant to pay such support in accordance with a plan approved by the Court.

When does the obligation for payment of arrears terminate?

Obligation for payment of arrears or past due support shall terminate by operation of law when all arrears or past due support have been paid.

What are the penalties for accumulating and failing to pay arrears?

Any person who owes \$1,000 or more in arrears or retroactive support and is 30 or more days delinquent in payment of a child support order from either Family Court or the Division of Child Support Enforcement may have their license suspended as defined in Title 13 Delaware Code section 516. Additional penalties may include sanctions such as fines and, ultimately, jail.



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If incarceration is a possibility, will the Respondent be represented by an attorney?

If the possibility for incarceration for failure to pay support exists, the Respondent will receive the paperwork to request the appointment of an attorney. This request may be granted if the Court determines that the Respondent is indigent.

If I do not think that the custodial parent is using the support payments properly, what may I file?

You may file a Petition for Accounting of Support. In this Petition, you must establish good cause for the Court to order an accounting. If the Court finds good cause to believe that the support payments are not being used properly, they may order an accounting. This would require the custodial parent to demonstrate what they are using the support payments for. However, if you ask for an accounting and no good cause is shown, costs and fees will be assessed.

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

PETITION FOR CHILD SUPPORT ARREARS

DCSE NUMBER _____

Fill in the requested information about yourself (Petitioner) and the Respondent.

IBER _____

Petitioner

Name		DOB	
Sarah Smith		2/25/1973	
Street Address			
111 South Oak Street			
Apt. or P.O. Box Number			
City	State	Zip Code	
Dover	DE	19901	
Home Phone #	(302) 555-0099		
Work Phone #	(302) 255-0000		
Cell Phone #	(302) 999-9999		
Attorney Name and Phone Number			
n/a			
Employer:	ABC Corporation		
Employer Address:	123 South Street Dover, DE 19901		

Respondent

Name		DOB	
Michael Jones		3/14/1977	
Street Address			
555 Main Street			
Apt. or P.O. Box Number			
City	State	Zip Code	
Dover	DE	19901	
Home Phone #	(302) 467-9908		
Work Phone #	(302) 565-0707		
Cell Phone #	(302) 575-1111		
Attorney Name and Phone Number			
n/a			
Employer:	DEF Corporation		
Employer Address:	North Street Dover, DE 19901		

Enter the information about the child support order that Respondent has not made payments on.

The prior Court order dated 4/5/2006 required the respondent to pay \$ 400.00 current support plus \$ 50.00 arrears/back support per month :

The Petitioner seeks the Court to direct the Respondent to appear in this case. The Respondent should not be held in contempt for the following:

Check the appropriate boxes to explain to the Court why the respondent has not complied with the Order and what you wish the Court to do.

☒ RESPONDENT has failed to comply with the Support Order made in the amount of \$ 2,400 and is therefore in contempt of this date received on 10/1/2007 .

☐ RESPONDENT has failed to comply with the medical provisions of this Order.

Basis for medical claim: _____

☒ Establish arrears and enter a judgment that can be recorded as a lien in the Office of the Prothonotary

☐ Other _____

Therefore, the Petitioner requests the child support obligation be enforced and that the Court impose such sanctions, penalties or other relief as deemed appropriate.

3/1/2008

Date

Sarah Smith

Petitioner/Attorney